

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHELLE HAGEN
5100 Streich Lane
Black Wolf, WI 54902,

Plaintiff,

v.

Case No. 19-CV-1863

FOND DU LAC SCHOOL DISTRICT
72 W. 9th Street
Fond du Lac, WI 54935,

Defendant.

COMPLAINT

The plaintiff, Michelle Hagen, by her attorney, William R. Rettko, alleges and shows to the court as follows:

NATURE OF THE CASE

Plaintiff brings this action to have the same terms, conditions and privileges of employment with the defendant because of her gender, together with depriving her employment opportunities that adversely affected her status as an employee because of her gender in violation of 42 U.S.C. § 2000 e-2 (Title VII), and to also have the same terms and conditions and privileges of employment with defendant as employees under the age of 40 receive, and to seek redress for past violations of those rights pursuant to 29 U.S.C. § 621 et seq.

JURISDICTION AND VENUE

Jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 1331, 1343, and 2201, and the Equal Employment Opportunity Commission's Notice of Rights to Sue Within 90 Days; a

copy of which are attached hereto as Exhibits A as authorized by 42 U.S.C. §2000 e-2 (Title VII) and 29 U.S.C. §621 et seq.

PARTIES

1. Plaintiff Michelle Hagen (“Hagen”), is a female adult resident, with a birthdate of October 19, 1962, residing at 5100 Streich Lane, Black Wolf, State of Wisconsin, and was employed by the Fond du Lac School District at all pertinent times as stated in this Complaint.

2. Defendant Fond du Lac School District ("District"), is a school district organized and operating under the laws of Wisconsin and pursuant to §120.10(14), Wis. Stats., is an entity that may prosecute or defend any action or proceeding involving the District which maintains its principal offices at 72 W. 9th Street, Fond du Lac, Wisconsin 54935 and is and was at all material times hereto the employer of Hagen.

STATEMENT OF CLAIMS

3. On August 1, 2013, Hagen began her employment with the District as a High School Assistant Principal from a field of more than 70 candidates and having over 23 years of experience with Milwaukee Public Schools including but not limited to performing in the position of Principal at the elementary and middle school levels.

4. For the 2014-2015 school year, the District posted openings in its High School Principal and Lakeshore Elementary School Principal positions.

5. Hagen applied for both positions, interviewed for both positions, and from a process involving approximately 21 candidates was selected for the High School Principal position, and was told by the District’s Superintendent James Sebert (“Sebert”) that “I need you at the high school, Lakeshore [Elementary School] can run itself.”

6. The High School Principal position is the most visible and potentially impactful Principal role in the District.

7. At that same time Matthew Steinbarth (“Steinbarth”) was placed into the Lakeshore Elementary School Principal position.

8. Hagen performed as the High School Principal beginning with the 2014-2015 school year to May 24, 2017 when she was told by Sebert that she was being transferred from the High School to Roberts Elementary School and was going to be replaced by Steinbarth because “it’s a better fit.”

9. Up through May 24, 2017, Hagen was evaluated as effective nor was she ever placed on a performance improvement plan which was required in order to allow principal’s not performing up to standard the notice and opportunity with coaching to improve deficiencies.

10. As of May 24, 2017, Steinbarth, a male being age 42, had absolutely no experience as a High School Principal, was and is over ten years younger than Hagen, was never interviewed or had to go through a selection process for the High School Principal position, had a close personal relationship with Sebert, and was paid \$115,000 per year to be the High School Principal versus Hagen who was paid \$108,991.82 per year to be the High School Principal.

11. Hagen was further informed that since the contracts for the 2017-2018 school year had already been entered, she would receive her expected pay for the upcoming school year of \$108,991.82 and expected to work a 260 day school year, but for subsequent school years (2018-2019 and beyond), the pay would drop to elementary school principal pay which was based on a 211 day school year versus a 260 day school year thereby reducing her pay to \$89,643 per year for the 2018-2019 school year and beyond or an involuntary decrease starting at just over \$19,000 per year.

12. As a further result of being informed she was being transferred to Roberts Elementary School without any prior notice or warning, she became distressed, humiliated and was hospitalized requiring intensive medical care for three days.

13. On May 31, 2017, Hagen's reassignment to Roberts Elementary School for the 2017-2018 School year was publicly announced in advance of the High School graduation ceremony less than a week away.

CAUSE OF ACTION
DISCRIMINATION ON THE BASIS OF AGE AND GENDER

14. Reallege and incorporate herein by reference paragraphs 1 through 13 of this Complaint as if set forth at length herein.

15. The District discriminated against Hagen on the basis of her gender (female) and age (54) by replacing her in the High School Principal position with Steinbarth who was a male more than 10 years younger than her (age 42) in violation of 42 U.S.C. §2000 e-2 (Title VII) and Age Discrimination 29 U.S.C. §621 et seq.

16. At the time of the replacement and reassignment of Hagen to Roberts Elementary School, Hagen was qualified for the position of High School Principal having performed the position since the start of the 2014-2015 school year, having received adequate performance reviews and was never placed on a performance improvement plan with required coaching.

17. The District further selected Steinbarth for the High School Principal position without conducting the required job selection process, without ever working as a Principal at the High School level while coming from an elementary school demeaned as being able to run itself, and having received more in pay than Hagen was currently earning as a High School Principal while having a close and personal relationship with Sebert.

18. As a result of the discriminatory reassignment of Hagen, the District caused Hagen to suffer an involuntary future pay reduction of over \$19,000 per year, together with emotional distress, physical harm and loss of reputation resulting in a three day hospitalization to treat for intensive care resulting from the humiliation and distress caused to her and further emotional distress resulting from the public announcement of the reassignment just a week or less in advance of the High School graduation ceremony she was expected to oversee, loss of future wages and benefits, and loss of future job opportunity, together with attorney fees, disbursements and costs as allowed by law.

19. The District's actions in discriminating against Hagen together with their deliberate and reckless indifference entitle Hagen to punitive damages as assessed by a jury.

WHEREFORE, Plaintiff Michelle Hagen respectfully requests that this Court:

- A. Assume jurisdiction of this case;
- B. Declare that the defendant's actions while acting under the color of law caused an unlawful employment practice against Michelle Hagen by their acts of discrimination made unlawful under 42 U.S.C. 2000 e-2 (Title VII) and 29 U.S.C. §629 et. Seq. (Age Discrimination), and enter a declaratory judgment to that effect;
- C. Award compensatory damages for loss of wages, emotional distress and loss of reputation against the defendant in the sum to be determined by a jury in favor of Hagen;
- D. Award punitive damages against the defendant in a sum to be determined by a jury in favor of Hagen;
- E. Award Hagen for her loss of back pay, future pay, and benefits.
- F. Grant Hagen her costs, disbursements and attorney fees in bringing this action; and
- G. Grant such further relief as the Court deems just and equitable.

A TRIAL BY JURY IS HEREBY DEMANDED.

Respectfully submitted, this 20th day of December, 2019.

RETTKO LAW OFFICES, S.C.
Counsel for Plaintiffs

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